

EXHIBIT 3

Picard v Keller

Gerald Keller 9/13/2017

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

vs.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In Re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, TRUSTEE FOR THE
SUBSTANTIVELY CONSOLIDATED SIPA
LIQUIDATION OF BERNARD L. MADOFF
INVESTMENT SECURITIES LLC AND
BERNARD L. MADOFF,

Plaintiff,

vs.

THE GERALD AND BARBARA KELLER
FAMILY TRUST, GERALD E. KELLER,
INDIVIDUALLY AND IN HIS CAPACITY AS
TRUSTEE OF THE GERALD AND BARBARA
KELLER FAMILY TRUST, BARBARA
KELLER, INDIVIDUALLY AND IN HER
CAPACITY AS TRUSTEE OF THE GERALD
AND BARBARA KELLER FAMILY TRUST,

Defendants.

Videotaped Deposition of:

Date:

Reported by:

GERALD E. KELLER

September 13, 2017

Stephanie P. Borthwick

C.S.R. No. 12088

BENDISH REPORTING

877.404.2193

1 Deposition of GERALD E. KELLER, taken on behalf
2 of the Plaintiff, before Stephanie P. Borthwick, a
3 Certified Shorthand Reporter, commencing at the hour
4 of 10:12 a.m., Wednesday, September 13, 2017, at the
5 offices of Litigation Services, 74199 El Paseo
6 Drive, Suite 202, Palm Desert, California.

7 APPEARANCES:

8 For the Plaintiff:

9 BAKER & HOSTETLER LLP
Attorneys at Law
10 BY: MARIE L. CARLISLE, ESQ.
811 Main Street
11 Suite 1100
Houston, Texas 77002-6111
12 (713) 646-1388
mcarlisle@bakerlaw.com

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For the Defendants:

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CHAITMAN LLP
Attorneys at Law
15 TELEPHONICALLY BY: JENNIFER ALLIM, ESQ.
465 Park Avenue
16 New York, New York 10022
17 (888) 759-1114
jallim@chaitmanllp.com

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19 Videographer:

20 Luis Garcia

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25

1 Q. And other than this one account that we're
2 discussing, 1ZB1314, did the trust have any other
3 accounts with BLMIS?

4 A. No.

5 Jennifer?

6 MS. ALLIM: Yes.

7 THE WITNESS: You're listening to what I'm
8 saying, making sure I'm right?

9 MS. ALLIM: Of course.

10 THE WITNESS: Okay. Thanks, hon. Just
11 want to make -- I heard snoring so --

12 MS. CARLISLE: Uh-oh, he caught you.

13 Q. Okay. Once you opened your account, what
14 did you do with the documents that you used to open
15 up the account?

16 A. I gave them to Irwin Levine.

17 Q. Okay. And who is Mr. Levine?

18 A. He's my financial director, vice president
19 of Keller Publishing.

20 Q. Okay.

21 A. And he handled all the financial parts of
22 it.

23 Q. Okay. When you say "the financial parts of
24 it," does that mean Keller Publishing or the BLMIS
25 investment?

1 A. Both.

2 Q. Both.

3 Did he handle your personal finances?

4 A. Some of them.

5 Q. Some of them, okay.

6 And to the extent you know, was Mr. Levine

7 a CPA?

8 A. Yes.

9 Q. Okay.

10 A. Yes.

11 Q. Now when you provided documents to

12 Mr. Levine, did you ask him to retain those

13 documents on your behalf or anything of that nature?

14 A. I'm sure when I give him things he retains
15 them for a certain amount of time. That's what he's
16 supposed to do.

17 Q. Do you know how long he retains them?

18 A. Don't have the slightest idea.

19 Q. Okay. Since December of 2008 have you gone
20 back to Mr. Levine and asked if he has any of those
21 documents?

22 A. Yes.

23 Q. Yes.

24 THE WITNESS: We have, right, Jennifer?

25 MS. ALLIM: Correct.

1 BY MS. CARLISLE:

2 Q. Okay. And just stepping back, I don't
3 necessarily want to know -- today what I'm trying to
4 find out a lot of times is what you've done. So if
5 Jennifer has done something that's okay, that's
6 wonderful, I just want to make sure that I get your
7 testimony correct today.

8 A. Okay. Sure.

9 Q. Okay. Do you know whether Mr. Levine
10 provided those documents?

11 A. As far as I know he did.

12 Q. Okay. And what types of documents over the
13 life of the account once you began investing to 2008
14 did you provide to Mr. Levine?

15 A. Well, anytime a check would come in, I
16 would countersign it and deposit it in Keller
17 Publishing.

18 Q. Okay. What about account statements?

19 A. Irwin got them.

20 Q. They went directly to Mr. Levine?

21 A. Right.

22 Q. What about correspondence from BLMIS?

23 A. All to Mr. Levine.

24 Q. So the only thing that came to you or to
25 the trust were the checks?

1 A. Right.

2 Q. Okay. And other than the checks which you
3 deposited, everything else went straight to
4 Mr. Levine and you didn't have any personal records?

5 A. Correct.

6 Q. Okay. Over the life of the account what
7 types of documents did you or someone on behalf of
8 the trust send to BLMIS?

9 A. You mean when they were asked for?

10 Q. Either when they were asked for or if you
11 had inquiries and sent correspondence, things of
12 that nature?

13 A. Well, the only correspondence we would ask
14 is when we would ask for money --

15 Q. Okay.

16 A. -- be sent to us.

17 Q. Okay. And did you or did Mr. Levine keep
18 copies of any of that correspondence?

19 A. I'm sure Mr. Levine did.

20 Q. Okay. And when these items were sent --
21 and this actually answers some other questions I'll
22 have later -- were those sent by you or Mr. Levine?

23 A. Mr. Levine.

24 Q. Okay. Were those done --

25 A. I might be also involved in sending in a

1 request. I'd have to sign for it, but then he would
2 send it in.

3 Q. That was going to be my next question.

4 In making a decision to make a withdrawal,
5 was that made by you?

6 A. Yes.

7 MS. CARLISLE: Now I'm going to hand you
8 what has been marked as Exhibit No. 3.

9 (Exhibit 3 was marked for identification.)

10 THE WITNESS: Jennifer?

11 MS. ALLIM: Yes.

12 THE WITNESS: There's a huge pile of papers
13 I'm looking at.

14 MS. ALLIM: Right. These are all the
15 exhibits that you're going to be shown today.

16 MS. CARLISLE: Sadly, Jennifer, the whole
17 stack isn't on the table for him to look at.

18 MS. ALLIM: Oh.

19 MS. CARLISLE: Yeah, I know. He's not even
20 looking at the full stack.

21 Q. If it makes you feel better, Mr. Keller,
22 each of these is in triplicate and you're only to
23 get one. I just have extra copies in case they're
24 needed --

25 A. Okay.

1 Q. Okay. Did you, personally, keep copies of
2 any of those records at all?

3 A. No.

4 Q. Did you, personally, when you received
5 the -- well, I guess you didn't receive anything.

6 I guess you received the checks and you
7 mentioned that you signed the checks.

8 A. Yeah.

9 Q. Other than signing the checks, did you
10 maintain any other records regarding withdrawals or
11 deposits?

12 A. That was Irwin's job.

13 Q. Okay.

14 A. My job to spend the money; his job to make
15 it work for me.

16 MS. CARLISLE: Not a bad job to have.

17 Okay. I'm going to hand you now what has
18 been marked as Exhibit No. 10.

19 Jennifer, I know we have a 10A, -B and -C,
20 but I'm just going to use 10C and that's the only
21 one I'm going to mark as 10.

22 MS. ALLIM: Okay.

23 MS. CARLISLE: Okay.

24 THE WITNESS: Thank you.

25 MS. CARLISLE: See, I told you. I know the